

DOCKET NO: B0801.70226US01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Birkenbach et al.  
Serial No.: Not yet assigned  
Confirmation No.: ---  
Filed: Herewith (December 31, 2003)  
For: EPSTEIN BARR VIRUS INDUCED GENES

Examiner: Not yet assigned  
Art Unit: Not yet assigned

**Mail Stop Patent Application**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**STATEMENT FILED PURSUANT TO THE DUTY OF  
DISCLOSURE UNDER 37 CFR §§1.56, 1.97 AND 1.98**

Sir:

Pursuant to the duty of disclosure under 37 C.F.R. §§1.56, 1.97 and 1.98, the Applicant requests consideration of this Information Disclosure Statement.

**PART I: Compliance with 37 C.F.R. §1.97**

This Information Disclosure Statement has been filed before the mailing date of a first Office Action on the merits in the above-identified case. No fee or certification is required.

**PART II: Information Cited**

The Applicant hereby makes of record in the above-identified application the information listed on the attached form PTO-1449 (modified). The order of presentation of the references should not be construed as an indication of the importance of the references.

The Applicant hereby makes the following additional information of record in the above-identified application.

**PART III: Explanation of Non-English Language References and Remarks Concerning Other Information Cited**

The following is a concise explanation of the relevance of each non-English language reference listed on the attached form PTO-1449 (modified):

The following are remarks concerning the other information cited:

PART IV: Remarks

Documents cited anywhere in the Information Disclosure Statement are enclosed unless otherwise indicated. It is respectfully requested that:

1. The Examiner consider completely the cited information, along with any other information, in reaching a determination concerning the patentability of the present claims;
2. The enclosed form PTO-1449 be signed by the Examiner to evidence that the cited information has been fully considered by the Patent and Trademark Office during the examination of this application;
3. The citations for the information be printed on any patent which issues from this application.

By submitting this Information Disclosure Statement, the Applicant makes no representation that a search has been performed, of the extent of any search performed, or that more relevant information does not exist.

By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56(b).

By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, in fact, prior art as defined by 35 U.S.C. §102.

Respectfully submitted,

By:   
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Docket No. B0801.70226US01  
Date: December 31, 2003  
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|---|---|----|---|--------------------------------------|--|------------------------------------|--|
| <b>FORM PTO-1449/A and B (Modified)</b><br><br><b>INFORMATION DISCLOSURE<br/>STATEMENT BY APPLICANT</b> |   |    |   | <b>APPLICATION NO.: Not assigned</b> |  | <b>DOCKET NO.: B0801.70226US01</b> |  |
|   |   |    |   | FILING DATE: Herewith                |  |                                    |  |
|   |   |    |   | APPLICANT: Birkenbach et al.         |  |                                    |  |
|   |   |    |   | GROUP ART UNIT: Unknown              |  | EXAMINER: Unknown                  |  |
| Sheet   | 1 | of | 2 |                                      |  |                                    |  |

**U.S. PATENT DOCUMENTS**

| Examiner's Initials# | Cite No. | U.S. Patent Document |           | Name of Patentee or Applicant of Cited Document | Date of Publication or of issue of Cited Document MM-DD-YYYY |
|----------------------|----------|----------------------|-----------|---|--|
|                      |          | Number               | Kind Code |   |  |
|                      | A1*      | 5,262,529            | A         | Dryja et al.                                    | 11-16-1993   |
|                      | A2*      | 5,744,301            | A         | Birkenbach et al.                               | 04-28-1998   |
|                      | A3*      | 5,753,516            | A         | Heagy et al.                                    | 05-19-1998   |

**FOREIGN PATENT DOCUMENTS**

| Examiner's Initials# | Cite No. | Foreign Patent Document |          |           | Name of Patentee or Applicant of Cited Document (not necessary) | Date of Publication of Cited Document MM-DD-YYYY | Translation (Y/N) |
|----------------------|----------|-------------------------|----------|-----------|---|--|-------------------|
|                      |          | Office/Country          | Number   | Kind Code |   |  |                   |
|                      | B1*      | WO                      | 90/05147 |           |   | 05-1990  |                   |
|                      |          |                         |          |           |   |  |                   |
|                      |          |                         |          |           |   |  |                   |

**OTHER ART — NON PATENT LITERATURE DOCUMENTS**

| Examiner's Initials# | Cite No | Include name of the author (in CAPITAL LETTERS) title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, relevant page(s), volume-issue number(s), publisher, city and/or country where published. | Translation (Y/N) |
|----------------------|---------|---|-------------------|
|                      | C1*     | ALFIERI et al., <i>Virology</i> 181:595-608 (1991)  |                   |
|                      | C2*     | BAYLISS AND WOLF, <i>J. gen. Virol.</i> 56:105-118 (1981)   |                   |
|                      | C3*     | BAYLISS et al., <i>J. of Virol. Methods</i> 7:229-239 (1983)  |                   |
|                      | C4*     | BIRKENBACH et al., <i>J. of Virology</i> 63(9):4079-4084 (1989)   |                   |
|                      | C5*     | CALENDER et al., <i>Proc. Natl. Acad. Sciences USA</i> 84:8060-8064 (1987)  |                   |
|                      | C6*     | FAVROT et al., <i>Intl. J. of Cancer</i> 38:901-906 (1986)  |                   |
|                      | C7*     | EHLIN-HENRIKSSON et al., <i>Intl. J. of Cancer</i> 39:211-218 (1987)  |                   |
|                      | C8*     | GREGORY et al., <i>J. of General Virology</i> 71:1481-1495 (1990)   |                   |
|                      | C9*     | HENDERSON et al., <i>Cell</i> 65:1107-1115 (1991)   |                   |
|                      | C10*    | HUMMEL AND KIEFF, <i>Proc. Natl. Acad. Sci. USA</i> 79:5698-5702 (Sep. 1982)  |                   |
|                      | C11*    | KNUTSON, J.C., <i>J. of Virology</i> 64(6):2530-2536 (1990)   |                   |
|                      | C12*    | QUALTIERE AND PEARSON, <i>Int. J. Cancer</i> 23:808-817 (1979)  |                   |
|                      | C13*    | ROWE et al., <i>Intl. J. of Cancer</i> 37:367-373 (1986)  |                   |
|                      | C14*    | ROWE et al., <i>EMBO Journal</i> 6(9):2743-2751 (1987)  |                   |

\* a copy of this reference is not provided as it was previously cited by or submitted to the office in a prior application, Serial No. 09/929,583, filed August 14, 2001; or Serial No. 09/536,954, filed March 28, 2000; or Serial No. 08/352,678, filed November 30, 1994; or Serial No. 07/980,518, filed November 25, 1992, relied upon for an earlier filing date under 35 U.S.C. 120 (continuation, continuation-in-part, and divisional applications).

|          |                 |
|----------|-----------------|
| EXAMINER | DATE CONSIDERED |
|----------|-----------------|

#EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

|   |   |    |   |                                      |  |                                    |  |
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|   |   |    |   | GROUP ART UNIT: Unknown              |  | EXAMINER: Unknown                  |  |
| Sheet   | 2 | of | 2 |                                      |  |                                    |  |

**U.S. PATENT DOCUMENTS**

| Examiner's<br>Initials# | Cite<br>No. | U.S. Patent Document |              | Name of Patentee or Applicant of Cited<br>Document | Date of Publication or of issue<br>of Cited Document<br>MM-DD-YYYY |
|-------------------------|-------------|----------------------|--------------|--|--|
|                         |             | Number               | Kind<br>Code |  |  |
|                         | A4*         | 5,759,804            | A            | Godiska et al.                                     | 06-02-1998   |
|                         | A5*         | 6,043,351            | A            | Birkenbach et al.                                  | 03-28-2000   |
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|                         |             |                      |              |  |  |
|                         |             |                      |              |  |  |

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|-------------------------|-------------|-------------------------|--------|--------------|---|---|----------------------|
|                         |             | Office/<br>Country      | Number | Kind<br>Code |   |   |                      |
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|                         |             |                         |        |              |   |   |                      |

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| Examiner's<br>Initials# | Cite<br>No | Include name of the author (in CAPITAL LETTERS) title of the article (when appropriate), title of the item<br>(book, magazine, journal, serial, symposium, catalog, etc.), date, relevant page(s), volume-issue number(s),<br>publisher, city and/or country where published. | Translation<br>(Y/N) |
|-------------------------|------------|---|----------------------|
|                         | C15*       | SPIRA et al., <i>J. of Immunology</i> 126(1):122-126 (1981)   |                      |
|                         | C16*       | THORLEY-LAWSON et al., <i>J. of Immunology</i> 134(5):3007-3012 (1985)  |                      |
|                         | C17*       | WANG et al., <i>J. of Virology</i> 64(5):2309-2318 (1990)   |                      |
|                         | C18*       | WANG et al., <i>Proc. Natl. Acad. Sciences USA</i> 84:3452-3456 (1987)  |                      |
|                         | C19*       | WANG et al., <i>J. of Virology</i> 64(7):3407-3416 (1990)   |                      |
|                         | C20*       | GenBank Acc. No. T02587, May 26, 1992   |                      |
|                         | C21*       | Stratagene Catalog, 1988 p. 39  |                      |
|                         |            |   |                      |
|                         |            |   |                      |

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